

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Gary Takahashi
dba Marhyill Orchards & Vineyards
Opposer,

In the Matter of Application Serial No: 76/217,177
Published in the *Official Gazette* On: April 9, 2002
Mark: MARYHILL VINEYARD & WINERY

Opposition No.: _____
NOTICE OF OPPOSITION

vs.

V & C, LLC
Applicant.



05-08-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #74

BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

NOTICE OF OPPOSITION

Sir:

Gary Takahashi dba Marhyill Orchards & Vineyards having its principal place of business at 125 Maryhill HWY, Goldendale, Washington 98620, believes that it will be damaged by registration of the mark shown in 76/217,177 in International Classes 31 and 33 and hereby opposes the same.

As grounds for this opposition it is alleged that:

1. Applicant seeks to register MARYHILL VINEYARD & WINERY as a trademark for use with raw grapes in International Class 31 and wine in International Class 33 as an Intent-to-Use application, published in the *Official Gazette* April 9, 2002.

2. Opposer and its predecessors have been using the mark MARYHILL in the form of MARYHILL VINEYARDS or MARYHILL ORCHARDS & VINEYARDS continually since as early as 1948 in connection with fresh fruit, including wine grapes, table grapes, peaches and nectarines.

3. There is no issue as to priority of use. The application for MARYHILL VINEYARD & WINERY was filed on an Intent-to-Use basis. Any first use date claimed by applicant will be subsequent to Opposer's first use of the MARYHILL VINEYARDS or MARYHILL ORCHARDS & VINEYARDS mark.

4. Opposer has continuously sold its goods under the marks MARYHILL VINEYARDS or MARYHILL ORCHARDS & VINEYARDS in interstate commerce since at least as early as 1948. Opposer has developed a valuable good will in respect to the MARYHILL VINEYARDS or MARYHILL ORCHARDS & VINEYARDS marks.

5. By virtue of its efforts, and by virtue of the excellence of quality of its products, the Opposer has gained for its above-identified marks a valuable reputation.

6. The trademark proposed for registration by the Applicant, namely MARYHILL VINEYARD & WINERY, with the disclaimer of VINEYARD & WINERY, is applied to the identical goods as those sold by Opposer and so nearly resembles the Opposer's marks as to be likely to be confused therewith and mistaken therefor. The Applicant's mark is deceptively similar to Opposer's marks so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing Applicant's mark.

7. If the applicant is permitted to use and register said mark for the identified goods, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the similarity between Applicant's mark and the Opposer's marks. Persons familiar with Opposer's marks would be likely to buy Applicant's goods as and for a product made and sold by Opposer. Any such confusion in trade inevitably would result in loss of sales to the Opposer. Furthermore, any defect, objection or fault found with Applicant's products marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for its goods sold under its marks.

8. If the applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer.

1 WHEREFORE, the Opposer prays that the application 76/217,177 be rejected, and that the mark
2 therein sought for the goods therein specified in International 31 and 33 be denied and refused.

3 A duplicate copy of this Notice of Opposition and the \$600.00 fee required by 37 C.F.R. § 2.6 (a)
4 (17) are enclosed herewith.
5
6

7 Respectfully submitted,

8 

9 Patrick H. Ballew
10 Beth A. Ross
11 Attorneys for Opposer
12 Gary Takahashi
13 dba Marhyill Orchards & Vineyards

14 STRATTON BALLEW PLLC
15 213 South Twelfth Avenue
16 Yakima, Washington 98902
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05-08-2002

U.S. Patent & TMOtc/TM Mail Ropt Dt. #74

In the Matter of Application:
Serial No. 76/217,177
Applicant: V & C, LLC
Mark: MARYHILL VINEYARD & WINERY

Express Mail label Number:
ET837524538US

BOX TTAB FEE
ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Please acknowledge receipt of the following:

1. Transmittal Letter;
2. Original and (1) Copy Notice of Opposition Under 37 C.F.R. §2.101
3. Check No.9279 in the amount of \$600.00 for the filing fee; and
4. Return receipt postcard.

PATRICK H. BALLEW, INC. PS

213 S. 12TH AVE
YAKIMA, WA 98902
(509) 453-1319

PACIFIC NORTHWEST BANK
YAKIMA, WASHINGTON 98907
98-53/1251

9279

April 20, 2002

PAY TO THE ORDER OF Assistant Commissioner of Trademarks

\$ 600.00

Six Hundred and 00/100

DOLLARS

Gary Takahashi dba Marhyill Orchards &
Vineyards

MARYHILL VINEYARD & WINERY

Application Serial No.76/217,177

TA11.T02OPP

MEMO NOTICE OF OPPOSITION



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PATRICK H. BALLEW, INC. PS

9279



Gary Takahashi dba Marhyill Orchards &
Vineyards

MARYHILL VINEYARD & WINERY

Application Serial No.76/217,177

TA11.T02OPP

NOTICE OF OPPOSITION

05-08-2002

U.S. Patent & TMOfo/TM Mail Ropt Dt. #74

COPY

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application:

Serial No. 76/217,177

Opposer: Gary Takahashi
dba Marhyill Orchards & Vineyards

Mark: MARYHILL VINEYARD & WINERY

Published in the *Official Gazette*
On April 9, 2002



05-08-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #74

Docket No.: TA11.T02OPP

**EXPRESS MAIL CERTIFICATE
NOTICE OF OPPOSITION UNDER 37 C.F.R. §2.101**

BOX TTAB FEE

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Express Mail label Number: ET837524538US

Date of Deposit: May 8, 2002

I hereby certify that the following attached papers and fees:

1. Transmittal Letter;
2. Original and (1) Copy of Notice of Opposition Under 37 C.F.R. §2.101;
3. Check No. 9279 in the amount of \$600.00 for the filing fee; and
3. Return receipt postcard.

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10, with sufficient postage, on the date indicated above, and is addressed to the Commissioner of Patents and Trademarks, BOX ITU FEE, 2900 Crystal Drive Arlington, Virginia 22202-3513

Amy K. Matthews

Typed or printed name of person mailing papers and fees

Signature of person mailing papers and fees

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application:

Serial No. 76/217,177

Applicant: V & C, LLC

Mark: MARYHILL VINEYARD & WINERY



05-08-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #74

Published in the *Official Gazette*
On April 9, 2002

Docket No.: TA11.T02OPP

**May 8, 2002
Yakima, WA 98902**

**TRANSMITTAL LETTER
NOTICE OF OPPOSITION UNDER 37 C.F.R. §2.101**

BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

We enclose herewith the Original and (1) Copy of the Notice of Opposition Under 37 C.F.R. § 2.101 to the above-identified application, and Check No.9279 in the amount of \$600.00 for the filing fee. Any over or under payment may be credited or charged to our PTO Account 50-0269.

Respectfully submitted,

STRATTON BALLEW PLLC

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